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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/634,594	08/04/2003	Eric J. Barton	10011280-4	6521

7590 03/01/2004

AGILENT TECHNOLOGIES, INC.  
Legal Department, DL429  
Intellectual Property Administration  
P. O. Box 7599  
Loveland, CO 80537-0599

EXAMINER
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GHYKA, ALEXANDER G

ART UNIT	PAPER NUMBER
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2812

DATE MAILED: 03/01/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/634,594

Applicant(s)

BARTON ET AL.

Examiner

Alexander G. Ghyka

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 9-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 9-16 and 18 is/are rejected.
- 7) ☒ Claim(s) 17 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

ALEXANDER GHYKA  
PRIMARY EXAMINER

AV 2812

*Alex Ghyka*

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 04 August 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 9-11 are rejected under 35 U.S.C. 102(b) as being anticipated by Nakajima (JP 02001157664).

The present claims generally require a method for fabricating an imaging device comprising fabricating electrical components of the imaging device on a substrate; forming an array of lenses on the substrate; forming a standoff on the substrate and surrounding the array of lenses; and attaching a cover to the standoff.

Nakajima discloses forming an imaging device comprising, forming a substrate containing electrical elements of the imaging device (Fig 4, item 51); forming an array of lenses on the substrate (Fig 4, item 531); forming a standoff on the substrate and surrounding the array of lenses (Fig 4, item 54); and forming a cover which overlies the array of lenses (Fig. 4, item 50). With respect to claim 10 and 11, Nakajima teaches a CMOS sensor. Therefore, Claims 9-11 are anticipated.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 12-16 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nakajima et al as applied to claims 9-11, and in further view of Bronson et al (US 6,594,916).

Nakajima et al is relied upon as discussed above.

However, Nakajima et al does not disclose the formation of a vent as required by the claims at hand.

Bronson et al discloses a highly moisture sensitive electronic device element and a method for its fabrication utilizing vent holes or gaps. Bronson et al disclose the formation of a vent as required by the present claims. See Figure 5B, item 100. Moreover, Bronson discloses the use of adhesives and photoresist in the encapsulation process. See column 16, lines 5-11.

It would have been obvious for one of ordinary skill in the art to use vents with the encapsulation as taught by Nakajima et al, for its known benefit in the art of allowing gases to escape during encapsulation. In light of the disclosure of the cited art, it would have been obvious for one of ordinary skill in the encapsulation art to provide vents to allow an escape route for gases. Therefore, a *prima facie* case of obviousness is established.

#### ***Allowable Subject Matter***

Claim 17 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the

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base claim and any intervening claims. The cited prior art does not disclose or suggest filler particles having a size equal to a thickness of the adhesive between the cover and the standoff after the pressing step, as required by the afore mentioned claim.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alexander G. Ghyka whose telephone number is (571) 272-1669. The examiner can normally be reached on Monday through Thursday during regular business hours.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John F Niebling can be reached on (571) 272-1679. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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AGG  
February 11, 2004

ALEXANDER GHYKA  
PRIMARY EXAMINER

Av 2812  
